A Comparison of Two Revolutionary Constitutions

Russian Socialist Federation Soviet Republic (RSFSR) – 1918 and France 1791

Abstract. *Russian Socialist Federation Soviet Republic (RSFSR) took birth in 1917, it was unique in a sense that it was inspired by the Marxist doctrine of class struggle and clash.* ***At*** *that particular time, apart from RSFSR, Republic of France and United States of America (USA) also had undergone revolutions against imperialism and had also adopted constitutions. This paper examines and compares the constitutions of RSFSR and France with an aim* ***to*** *highlight the major distinctive features of fundamental rights and role of military.*

Keywords. Russia 1918, Constitution, France 1791, Revolution. Social contract.

Introduction.

Man by nature is free but everywhere is in chain is a famous saying of Rousseau it has deep philosophical meaning. Nature has created man and woman free in nature however over period of time the institutions of religion, imperialism, economy, and security emerged and resultantly the humans even today finds themselves mentally, emotionally and physically bound and bonded to scripture and regulations. Every act of humans is being controlled from their birth , upbringing, education, marriage, and even death is regulated by rules, customs and rituals. In the beginning of human civilisation there were tribes and clans which later became states and empires. This evolution is mostly recorded in present day Syria, Egypt, Iraq, Pakistan, India and later in eastern and western Europe. In India, the humans were classified into four classes or castes from their birth and lowest class the Shudars were not allowed to even eat in the same utensils as used by upper classes. In Europe, civilisation progressed mainly on the islands of present day Greece where philosophers emerged and they contemplate about the society. The very first constitutions in the world were adopted and analysed by them. Aristotle wrote Constitution of Athens in which he highlighted the plight of working class how debt and other steps had enslaved the humans. Similarly in Rome, the laws emerged first in shape of 12 Tables and later under Emperor Justinian as a code of life; however it was a Christian code of life. Islam came as a divine religion in 6th Century A.D. and to a great extent it brought equality among

humans and gave a detailed laws ranging from inheritance among daughters to taxes on agriculture. World remained embroiled in religious wars and dogmas till mid of last millennium. Empires were created and destroyed in the name of religion, humans were massacred for the sake of religious glory.

In mid of last millennium a wave of exploration started from Europe which not only explored new maritime routes but in the process new continents were also discovered and colonised most notable being America and Australia. Humans from Africa were captured and sold as slaves in America and Europe, infact slavery is as old as the human civilisation and so is use of women in prostitution ; all for the increase in wealth. The accumulation of wealth, subjugation of human to royalty, deprivation of morality and its implementation in selected areas and classes were the norms. First to break this shackle were the Americans, these were the people who immigrated from Europe mainly due to religious wars among protestants and Catholics, due to desire for a better life and trade. The continent of America was being colonised by French and British apart from Spanish.

In 1789 , two revolutions took place, one in America and other in France. In America the issue were the taxes imposed by the British and after a short war the British surrendered and a new country emerged which is today known as USA. Another revolution took place in France (Brittanica 2024), it had a deep roots against the religion and imperial rule. Both countries adopted constitutions and accepted and admitted that there are certain basic human rights also. In 1840s Karl Marx a German philosopher through his books brought forward a new theory and philosophy , according to him the entire human history is a tale of class conflict between the rich and poor and the rich or bourgeoisie class is exploiting working or proletariat class; his ideas are now known as Marxist or Marxism. The subsequent industrial revolution acted as catalyst in this class conflict theory . Europe was being ruled by few families , in United Kingdom, Holland, Denmark, Sweden, Austria, Germany and in Russia ; there was imperialism and colonialism. Among all these countries Russia stands out mainly due to its vastness and the fact that it is spread and split over Europe and Asia, Marxist ideas affected it more than any other country, there is no substantive theory to explain as why it happened in Russia and why not in other countries. In 1917 a revolution also took place in Russia and resultantly the Czar and his family were murdered and a new constitution was adopted (Brittanica,2024). Russia was declared as

RSFSR. With the passage of time, in 1990 the RSFSR and communism were replaced by democracy and Russia became a republic.

Aim. To analyse and compare the constitutions of RSFSR and France with special emphasis on military and judiciary.

Methodology. The nature of subject invariably imposes a hybrid combination of positivism and interpretivism. Primary sources are available in the form of respective constitutions. The time frame and boundary limit is that of period 1917-1923 in respect of two constitutions thus the amendments carried out in French constitutions after 1923 are not being considered.

Theoretical framework.

Historicism is not merely a record of history in terms of time and date rather it is a philosophy of history. It connects and links the event of present with the past as a flowing of ideas. The French Revolution took place in 1789 and is influenced by the works of Jacques Rousseau ‘ Social Contract’ . This philosophical and theoretical work pivots on the concept and theory of human emancipation from the slavery of the imperialism. Rousseau stated ‘ man was born free but is in chains everywhere’ (Rousseau 1762/ 1984, p-3) . Another French philosopher Montesquieu in his Spirit of Laws (1748/1995) highlighted the nature of laws and its impact and effect on the society. The combined theories of Rousseau and Montesquieu creates a notion of a civil state and society ruled and governed by laws in which the freedom of man and his family is assured and insured by the state.

Russian Revolution is inspired more explicitly by works of Karl Marx and his idea and theory that , the basis of conflict in the human history is due to economics and one particular class namely bourgeois which have the means of production is exploiting the working class namely the proletariat. Furthermore , Marx key assumption was that if all workers get united than the peace in the world can be achieved.

Salient features of French Constitution

The preamble of French constitution abolishes all ranks of nobility

The National Assembly, wishing to establish the French Constitution ... abolishes irrevocably the institutions which were injurious to liberty and equality of rights. Neither nobility, nor peerage, nor hereditary distinctions, nor distinctions of orders, nor feudal regime, nor patrimonial courts, nor any titles, denominations, or prerogatives derived therefrom, nor any order of knighthood, nor any corporations or decorations requiring proofs of nobility or implying distinctions of birth, nor any superiority other than that of public functionaries in the performance of their duties any longer exists… Neither privilege nor exception to the law common to all Frenchmen any longer exists for any part of the nation or for any individual… The law no longer recognizes religious vows or any other obligation contrary to natural rights or the Constitution.

Fundamental Rights granted by the constitution are based upon 'The Declaration of the rights of man and of the citizen'. These were passed and adopted by the constituent assembly between 20-26 August 1789. It has 17 articles and they assured freedom , liberty of man, equality before law. First article stipulates *Men are born and remain free and equal in rights. Social distinctions may be based only on considerations of the common good.*

The other sixteen articles deliberates upon the relation between citizen and the state, private property is allowed, public officials are made accountable to the public, every man is to be assumed innocent until proven guilty. freedom of expression and association is allowed even criticism of religion is accepted.

Article 2 of declaration states the rights of man as *natural and imprescriptible rights of Man. These rights are Liberty, Property, Safety and Resistance to Oppression.*

The main emphasis of the declaration is on the concept of Law. Articles 4-11 , all have the concept of law as the guiding and governing force for any curb on the fundamental right of liberty and freedom of speech. Article 16 states *Any society in which no provision is made for guaranteeing rights or for the separation of powers, has no Constitution.*

French Constitution of 1791 further in its fundamental rights guarantees free education for the citizen, free conveyance to go to a religious place, however it confiscates all religious properties from a organisation in the name of public. It also favours celebrating national festivities to

honour the revolution. Constitution further focus on establishing uniform civil code to be applied throughout the Kingdom.

In Title II, France is declared as Kingdom The title deals with the nationality of France and how it can be lost, a judgement of contempt of court can be one reason. Marriage was accepted as a civil contract.

Role of Military. Title IV

French constitution has delegated executive powers to the King**,** however the legislative powers are with the constituent assembly and all matters of war and peace, arising of forces are with the legislative body. King is the head of the army and navy as stipulated under chapter IV (i). However the control of military is spread over the constitution with legislative having the final authority on declaration of war and peace, maintenance of force, its pay and allowances. (Chapter III, Section I ;7th & 8th and Section II). However Section III of Chapter IV dealing with powers of executive gives King the right in following manner *The King alone may maintain political relations abroad, conduct negotiations, make preparations for war in proportion to those of neighboring states, allocate land and sea forces as he deems advisable, and regulate the direction thereof in case of war.*

French Constitution has employed the term Public Force rather than military, *The public force is instituted to defend the State against enemies from abroad, and to assure the maintenance of order and the execution of the laws within*. Constitution further elaborates as what it means by the term Public Force, it includes army, navy and national guards. Title IV,Section III describes national guards as '*The National Guards are neither a military body nor an institution within the State; they are the citizens themselves, summoned to the service of the public force*.' French constitution has rather shied in using the term Militia for the National Guards. Militia has been part of UK since 14th Century and was theorised by Nicolai Machiavelli in his Art of War. (1521/1986). Under the French constitution this public force was subject to special laws due to their discipline and nature of work. Thus French Constitution despite all its high wording and soul moving articles in the end admitted that all laws are not applicable on every citizen of the monarchy rather there are exceptions.

RSFSR Constitution 1918

To a great extent the circumstances leading to Russian revolution in 1917 are quite similar to the events in France in 1789; this similarity becomes even more obvious when considering the adoption of constitutions in both countries. In Russia, Czar was the law and people had been suffering for centuries. In 1906 some constitutional concessions were granted by the Czar after a military mutiny. Political parties were formed in Russia in the late 1890s which were more or less Marxist in philosophy. Vladimir Lenin emerged as the most enterprising political leader and after 1915 he was in exile. In 1917 the revolution started rather accidentally and similar to French Revolution main cause was the shortage of food items in Petrograd. Russia was at war with Germany thus on 23rd February 1917 the first act of revolution took place and with passage of days, similar to French revolution the imperial authority started decaying. Again similar to France the constituent assembly was formed , however by mid July 1917 the Bolshveik under Lenin were planning schemes of their own. Finally on 25 October 1917, when the constituent assembly was in progress the Bolshevik overcame their opponents and declared victory for soviets. In November 1917 the elections for constituent assembly were held in which the Socialist party won 40% and Bolsheviks (Russian Social Democratic Workers Party) won 25%. Lenin refused to accept the results and on 18 January 1918 the constituent assembly was dissolved and Lenin and his party was in power. In July 1918 the constitution was adopted with the decree of Declaration of rights of working and exploited people being a part of it. This declaration was given on 26th October 1917 and later on 2nd January 1918. Lenin was the architect of this declaration. This is also similar to the French declaration which was also adopted almost two years before the formal adoption of their constitution.

The constitution of RSFSR

The constitution was adopted on 10th July 1918 by the fifth all Russian congress of soviets at Petrograd. It had six sections, seventeen chapters and 90 articles. The first section comprised of the Declaration of the rights of the working and exploited people. The declaration itself had four sections and on the advice of Lenin it was inserted in totality as first section of the constitution.

Russia was declared a republic of the workers, peasants and soldiers. The Russian republic was a free union of free nations. Section I, Chapter II,(3) (a) abolishes all forms of private property,(c) ownership of all factories and means of production was granted to the workers € banks were nationlised, and clause (f) and (g) made work obligatory and all workers were to be armed. These were the main features of the First Section of the RSFSR Constitution.

Section II , which deals with the structure of the government, declares Russia to be a dictatorship of working class and supreme authority vested in the All Russian congress of workers. In Sections 9-13, the church was separated from state and religious and anti religious propaganda was allowed. Under

section 17, free education is to be provided by the state. Section 22, states the fact that all Russians are equal before law.

Section III & IV deals with the administration and elections while Section V deals with budget and taxes and the last section deals with the national emblem. Thus there are no separate chapters or sections dealing with judiciary or military.

Role of Military in RSFSR Constitution 1918

Military played a fundamental and key role in the revolution, it did not physically initiated the revolution in February 1917 but by remaining neutral in the initial days and then showing sympathy and empathy with the working agitators at Petrograd; its role thus become pivotal. In the period leading to the October Revolution 1917, it took side with the Bolsheviks mainly die to the propaganda impact of Lenin. Under the constitution the power was being shared by the workers, peasants with the soldiers rather these three were the main pillars of the state. A socialist Red Army was sanctioned under Article I, Chapter II (g). Article III, Chapter VI which deals with the power in soviet republic , it states *The All-Russian Congress of Soviets of Workers', Peasants', Cossacks', and Red Army Deputies*. And this congress was the supreme power in RSFSR. There were seventeen peoples commissars (ministers) in the RSFSR, and navy and army were headed by separate commissars. This shows the importance being given to navy and army (air force was not yet established in RSFSR). Under Article IV, Chapter XIII (b) which deals with the right to vote, the soldiers and sailors of army and navy were among those few who were given the right to vote. In Article VI, the flag of army and navy are given and they are different from the standard flag of RSFSR.

As is obvious that unlike French Constitution , no person has been made commander in chief of army or navy, rather a socialist kind of Red Army was being raised. RSFSR constitution is rather silent on the rank structure and how generals or admirals will be selected or elected. Moreover by arming the workers, a kind of Militia or workers army is being raised. The status of military was thus being made equal to the other classes

Conclusion

The two constitutions highlight the impact of revolution on the process of drafting and implementation of constitutions. In France the constitution making process lasted for over a decade and finally ended with the end of revolution itself in 1799. In Russia similar pattern emerged with constitution making process lasting from 1917 to 1924. There are common features in both constitutions although they were ideologically poles apart, yet both rose against the tyranny. The declaration of Human rights in

France and declaration of Workers rights in Russia are two of the most important decrees in not only these two constitutions but are to a great extent still part of many national and international constitutions .

Property and accumulation of wealth is the fundamental difference between these two constitutions. The RSFSR Constitution out rightly outlawed the property ownership and subsequent inheritance. Both constitutions have shown little respect or regard to the religion as both separated church from state and confiscated their property. RSFSR Constitution is being more revolutionary as it out rightly abolished monarchy. Military was being reduced in prestige from the past precedence's , French used the term public force and RSFSR used the term Socialist Army; however both constitutions still gave a mark of respect and importance to military. In French Constitution the military was not subject to the ordinary laws, legislative had control over its number and other terms like pay and allowances. RSFSR also granted the right to vote to military and made them a shareholder in the power structure.

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